

Claimant alleges that she sustained repetitive use injuries while working for respondent through March 30, 1999. After finding Dr. John P. Estivo's medical opinions more persuasive than Dr. Richard S. Piazza's, Judge Clark concluded that claimant's work-related injuries were only temporary in nature and had resolved. Therefore, in the November 2, 2000 Award the Judge denied claimant's request for additional workers compensation benefits.

Claimant contends Judge Clark erred. Claimant argues that she has proven that she sustained permanent injury and permanent impairment while working for respondent. Claimant requests an award for a 24 percent permanent partial general disability, which is based upon the whole body functional impairment rating provided by Dr. Piazza.

Conversely, respondent and its insurance carrier contend the Award should be affirmed. They argue that claimant spent only three or four weeks riveting while employed by respondent and that there is no credible evidence that claimant sustained any permanent impairment as a result of that work. They also argue that claimant's symptoms in February 2000 were the result of work that she had more recently performed in Colorado, rather than the earlier work that she had performed for respondent. Respondent and its insurance carrier also argue that Dr. Piazza's opinions are "fraught with inconsistencies, errors, and inaccuracies" and, therefore, they must be disregarded.

The issues before the Board on this appeal are:

1. Did claimant sustain permanent injury or permanent impairment while working for respondent through March 30, 1999?
2. If so, what is the nature and extent of claimant's injury and disability?
3. Is claimant entitled to future medical treatment and unauthorized medical benefits?

FINDINGS OF FACT

After reviewing the entire record, the Board finds:

1. Claimant initiated this claim alleging bilateral ankle and bilateral wrist injuries. In the Application for Hearing filed with the Division of Workers Compensation on April 29, 1999, claimant alleged a March 30, 1999 date of accident.
2. Respondent, a temporary employment agency, assigned claimant to work at the Coleman manufacturing plant where she worked for approximately nine weeks, moving from department to department. According to the history given Dr. Richard S. Piazza, a physician chosen by claimant's counsel to evaluate her, claimant suddenly noted numbness and pain in both hands and spontaneous pain in both feet on March 30, 1999, while operating a riveting machine at the Coleman plant.
3. Claimant used the riveting machine to place lids on two-burner stoves. Claimant held the lids in place while the machine riveted. The work required claimant to use a foot pedal to operate the machine, which she associates with her lower extremity symptoms. Claimant estimated that she riveted over 100 stoves per hour. Claimant performed the riveting job for approximately three or four weeks, with her last day being March 30, 1999.

4. After claimant left the Coleman job, respondent assigned claimant to work for EnVision. Claimant worked that assignment for only approximately two or three weeks as she found the job too physically repetitive. That was claimant's last job assignment from respondent, although claimant asked for more work.

5. After reporting her symptoms, claimant was referred to the Wichita Clinic for medical treatment. Later, claimant's attorney referred claimant to Dr. Piazza, who then referred her on to Dr. Estivo. Claimant then stopped medical treatment as she moved to Colorado in October 1999 because she was having family problems. But in February 2000, claimant returned to Kansas. Since her return to Kansas, claimant has seen both Dr. Piazza and Dr. Estivo for further evaluation. Claimant states her ankles are better but she still has upper extremity symptoms, including pains shooting up her shoulders and shoulder swelling.

6. When in Colorado, claimant found work hanging fiberglass pipe insulation. That work required claimant to pull tape from the insulation before wrapping it around the pipe. Claimant testified that the work aggravated her hands, causing her to quit after approximately two months. Claimant worked no other jobs in Colorado. But after returning to Kansas, claimant worked at a Taco Bell for approximately a week, quitting because it required her to stand and perform repetitive activities.

7. Following the Taco Bell job, claimant did not look for work. At the time of the June 2000 regular hearing, claimant was neither working nor looking for work. Additionally, claimant had recently applied for Social Security disability benefits because she did not believe that she could work a full-time job due to her hands.

8. Claimant presented the testimony of Dr. Richard S. Piazza, who is board certified in family practice medicine in the field of osteopathy and who is also the director of the Family Practice Residency Program at Riverside Health Systems in Wichita, Kansas. The doctor also serves as the occupational medicine doctor for approximately 300 companies located in the Wichita area. The doctor saw and treated claimant on several occasions in May 1999 before she moved to Colorado and once after claimant returned to Kansas. In his May 25, 1999 report, Dr. Piazza diagnosed claimant with the following:

1. Continued cervical radiculopathy w/paresthesias C4-5, C5-6, C6-7.
2. Bilateral shoulder discomfort syndrome w/clicking in the left and grinding on the right. Possible impingement syndrome vs. rotator cuff injury.
3. Bilateral mild carpal tunnel syndrome w/mild small ganglion cysts on both wrists.
4. Acute anxiety/stress disorder.
5. Mood swings.
6. Hyperestrogenemia.
7. Hypomagnesium anemia.
8. B12 deficiency anemia.

9. Insomnia.

The doctor recommended an MRI scan with contrast of the cervical spine and both shoulders to rule out impingement syndrome and an upper nerve conduction study.

9. Dr. Piazza referred claimant to Dr. Michael Estivo but claimant actually saw Michael's brother, Dr. John P. Estivo. Claimant first saw Dr. Estivo in June 1999. In August 1999, the doctor diagnosed a resolving cervical spine strain and asymptomatic bilateral mild carpal tunnel syndrome. Based upon that evaluation, Dr. Estivo believed that claimant had no permanent functional impairment and no work restrictions.

10. In late February 2000, claimant returned to Dr. Piazza for additional evaluation. The symptoms and findings that claimant displayed at that visit were significantly greater from those presented to and found by Dr. Estivo in August 1999. But Dr. Piazza could not explain why claimant's symptoms had increased and had no record in his file regarding claimant's activities following Dr. Estivo's evaluation in August 1999, when claimant's symptoms were noted to be relatively minor.

11. At his deposition, Dr. Piazza testified that he believed claimant's employment had caused median nerve neuritis and that her employment had aggravated her cervical spine strain. The doctor rated claimant according to the fourth edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* and found a 24 percent whole body functional impairment for the bilateral median nerve neuropathy and the exacerbation to the cervical spine, both of which the doctor attributed to the work with the riveting machine.

12. Dr. Piazza also testified that claimant should observe the following permanent work restrictions and limitations: claimant should wear bilateral wrist splints at all times when doing any physical activity; lift no greater than 25 pounds occasionally, 15 pounds frequently and 10 pounds constantly; engage in no repetitive motions with her wrists and try to avoid any assembly-type activities that require repetitive flexion, extension, supination or pronation.

13. Dr. Estivo testified that he first saw claimant on June 10, 1999, and on that date claimant only complained of symptoms in her hands and in her neck going down into her trapezius muscle bilaterally. At claimant's second visit with the doctor on June 29, 1999, claimant only complained of cervical spine pain and she denied arm pain. At their third visit in August 1999, claimant stated that her physical therapy had been quite helpful. At that visit, claimant stated that she had occasional left trapezial pain along the left side of her neck but that it was also improving. The doctor then released claimant with no restrictions.

14. Dr. Estivo saw claimant for the last time in June 2000. The doctor again found that claimant had asymptomatic bilateral mild carpal tunnel syndrome and mild cervical spine strain. The doctor's opinion did not change that claimant needed no work restrictions and

had no functional impairment because he believed the cervical spine strain was very mild and the bilateral carpal tunnel syndrome was not symptomatic.

15. The Board adopts the findings and conclusions made by the Judge in the Award that are not inconsistent with the above.

CONCLUSIONS OF LAW

1. The Award should be affirmed.

2. Considering the entire record, the Board finds and concludes that claimant has failed to prove that she sustained permanent injury or permanent impairment while working for respondent. The Board affirms the Judge's conclusion that any injury that claimant sustained while working for respondent was only temporary in nature. Therefore, the request for permanent partial general disability benefits should be denied. Likewise, the request for future medical benefits should be denied. Claimant is entitled to unauthorized medical benefits up to the statutory maximum of \$500.¹

AWARD

WHEREFORE, the Board affirms the November 2, 2000 Award entered by Judge Clark.

IT IS SO ORDERED.

Dated this ____ day of June 2001.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: W. Walter Craig, Wichita, KS
David S. Wooding, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director

¹ See K.S.A. 1998 Supp. 44-510(c)(2).